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**Preliminary observations made by the delegation
of the European Committee for the Prevention
of Torture and Inhuman or Degrading Treatment
or Punishment (CPT) which visited Turkey**

from 16 to 24 July 2000

and Response of the Turkish authorities

The Turkish authorities have authorised the publication of these preliminary observations and of their response.

Strasbourg, 7 December 2000

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**I. Statement made on 24 July 2000 by Ms Silvia CASALE,
President of the European Committee for the Prevention of Torture
and Inhuman or Degrading Treatment or Punishment (CPT),
at the end of the CPT's visit to Turkey
from 16 to 24 July 2000**

The delegation received excellent cooperation throughout the visit, at both national and local level. It was granted immediate access to all places, including those not notified in advance. Further, all briefing materials were promptly provided. The delegation is grateful to the Turkish authorities for this level of cooperation.

The delegation focused on two main issues during the visit; steps being taken to introduce smaller living units for prisoners and police matters. It wishes at this stage to make the following preliminary observations. The full report on the visit will be forwarded to the Turkish authorities in November 2000.

Prisons

The CPT recognises the problems caused by large dormitory accommodation and has noted with interest the Turkish authorities' willingness to address the issue by reducing the size of living units.

The proper management of prisons is a complex matter. The physical construction of the prison is one important consideration. However, a satisfactory material environment by itself is no guarantee that a prison will function in a positive manner. It is in the interests of all concerned that most prisoners within an establishment should not be left to their own devices but should spend a reasonable amount of time each day involved in purposeful activities. In order to achieve this objective, careful selection, proper training and support of staff at all levels is essential.

In all prison systems there will be a small number of prisoners who present particular problems to management and for whom special arrangements need to be made to ensure security and control. The Committee recognises that this is an important issue for the Turkish authorities.

The Turkish authorities are devoting considerable resources to the physical infrastructure of prisons. The main focus of this activity is the construction of new accommodation on the F-type model (intended to hold 368 prisoners) and the conversion of large dormitories to smaller living units. The delegation has had lengthy discussions with the Director General and other senior officials of the Prisons Department regarding the reasoning behind this shift in policy and the plans for its implementation. As the CPT has previously stated, there is no objection in principle to this move towards smaller living units, always provided that inmates have the opportunity to spend a reasonable part of each day outside their living units, engaged in purposeful activities.

The delegation also had the opportunity to visit the construction site of the new F-type prison at Sincan, which is nearing completion. The physical environment of the living units represents a genuine attempt to provide good conditions of detention for the occupancy levels foreseen. However, there are certain features that give the delegation cause for concern. These include the fact that living units only look onto the high-walled exercise yards. In practice, this reduces the maximum length of vision to ten metres.

The prison at Sincan includes facilities for a range of communal activities. In principle, each F-type prison is to offer such facilities for the use of up to 357 prisoners. The delegation wishes to emphasise that these areas are an integral feature of the prison and should be used to their fullest potential.

The delegation also visited Kartal Special Type Prison. In many ways this prison bore physical similarities to the F-type model. Some facilities existed for communal activities; however, the delegation noted that they were virtually unused. This raises doubts in our minds as to the extent to which prisoners will in fact be involved in activities outside their living units in the new F-type prisons.

In addition, the delegation briefly visited Bursa E-type prison. This prison demonstrates the difficulties of converting a busy overcrowded establishment from a large dormitory style prison to a room type prison; the delegation noted that this conversion includes increasing the height of the yard walls by 3 metres. The level of overcrowding has meant that units planned for up to eight prisoners are holding as many as 24 prisoners, who remain in the units continuously. Room type prisons are especially oppressive when used in this way.

In the report we shall address a number of other matters, including material conditions of detention and lack of exercise during the initial period of custody and deficiencies in certain aspects of health care. However, the delegation wishes at this stage to make the following immediate observation under Article 8, paragraph 5, of the Convention, concerning conditions in the discipline and observation section at Bursa E-type prison. Prisoners placed in that section are held in cells which are inadequate in size and very poorly lit and in which they spend periods of up to 25 days with a total lack of outdoor exercise. The delegation wishes to receive within three months an account of measures taken to remedy these deficiencies.

The delegation would like to emphasise that an important feature of good prison management is careful initial risk assessment of all incoming prisoners, to ensure their safety and the safety of others. If this process is to be effective, there has to be close interaction between staff and prisoners. Staff who carry out this assessment should be specially trained and should include custodial staff as well as psychologists, social workers and teachers. In addition to dealing with the special needs of prisoners, such a process would help the management to distinguish the small number of prisoners who are likely to present a threat to security or control from the majority who will be suitable for inclusion in a normal, developed programme of regime activities.

Finally, we note that reference has been made by the Turkish authorities to the report on the Committee's visit in August 1996, which comments on the plans to move from a large dormitory system to smaller living units. In order to stimulate public debate on this important issue, and in line with our discussions with the Minister of Justice, we would suggest that the report be published in its entirety.

Police

The visit provided an opportunity to review the treatment and physical conditions of detention of persons deprived of their liberty by the police. The delegation focussed its attention on the Istanbul metropolitan area. It visited the Anti-Terror Department and the Narcotics and Organised Crime Sections at Istanbul Police Headquarters, as well as certain other police establishments in the city, and also interviewed a number of prisoners who had recently been held by the police in Istanbul. In addition, the delegation met the Chief Public Prosecutor of Fatih (whose Office examines allegations of ill-treatment concerning most departments of Istanbul Police Headquarters) and the Acting Chief Public Prosecutor at the Istanbul State Security Court, and it gathered information from the forensic medical service attached to the State Security Court.

The information gathered from these different sources suggests that resort to the most severe methods of physical ill-treatment encountered in the past by CPT delegations - for example, suspension by the arms and the infliction of electric shocks - has diminished in recent times in the Istanbul area, both in Police Headquarters' departments and district police establishments. This is clearly a step in the right direction. However, it would appear that resort to methods such as deprivation of sleep over periods of days, prolonged standing, and threats to harm the detainee and/or his family remain commonplace, for example in the Anti-Terror Department at Istanbul Police Headquarters.

Further, in the light of both medical reports gathered and interviews with prisoners, the delegation has strong reason to believe that persons held in the Narcotics Section at Istanbul Police Headquarters are still on occasion beaten and sprayed with cold water.

Moreover, the information gathered indicates that persons suspected of offences against property - such as theft and fraud - are still at risk of being beaten on the soles of their feet and/or their hands in the course of questioning. Allegations of falaka were heard in relation to both district police establishments and the Law and Order Department at Istanbul Police Headquarters.

The CPT trusts that the Turkish authorities will remain resolute in their intent to stamp out the use of methods such as those I have just mentioned, which have no place in a modern police system. In this connection, a Deputy Security Director at Istanbul Police Headquarters informed the delegation that a fundamental shift in approach was taking place: the police were no longer moving from the suspect to the evidence, but from the evidence to the suspect. Such a change of philosophy is a most welcome development; however, it implies a major investment in police training and modern investigation techniques.

Despite the many changes to legislation in recent years, a number of weaknesses remain as regards formal safeguards against ill-treatment. Persons detained on suspicion of collective offences falling under the jurisdiction of the State Security Courts are still being denied access to a lawyer during the first four days of their custody; even after the four-day period, access to a lawyer is in practice the exception rather than the rule. Further, detained persons are still not being brought before the judge who must authorise extension of police custody beyond four days. These fundamental safeguards must be introduced.

There is also room for improvement as regards the quality of the medical examination of persons in police custody. This is particularly the case as regards examinations carried out by doctors in State hospitals, a point highlighted by the Fatih Chief Public Prosecutor. The conditions of the examination often lack privacy - in particular, police officers are frequently present - and the written record of the examination is scant.

All of these matters and others, such as conditions of detention (in respect of which progress continues to be made), will be dealt with in greater detail in the visit report.

Allow me to conclude by stressing that the delegation is convinced of the sincerity of the Turkish authorities in their efforts to address the problem of torture and ill-treatment by law enforcement officials. Those efforts have already borne fruit in some areas. However, further progress will depend very much on continuing close supervision over the activities of such officials. Consequently, the delegation attaches great importance to the compliance monitoring procedure established by the Prime Minister's Circular of 25 June 1999. Needless to say, the Turkish authorities can continue to rely upon the cooperation of the CPT in their endeavours to reach our shared goal.

II. Response of the Turkish authorities

A. Prisons

a. F-type prisons

The Turkish authorities are pleased that the CPT has noted their efforts to ensure good conditions of detention in the construction of F-type prisons. In terms of both physical structure and management system, F-type prisons have the equipment and facilities needed for remand and sentenced prisoners to spend a reasonable part of the day engaged in purposeful activities without endangering the security of the prison, and they comprise all the elements required to fulfil the purpose of sentence enforcement. The Turkish authorities will be receptive to the CPT's recommendations concerning purposeful activities to be offered to prisoners.

We understand the CPT's concern at the fact that the exercise yards in the areas containing the living units are surrounded with high walls and that this reduces the maximum length of vision to 10 metres. However, we consider that the following points also need to be borne in mind.

1. In architectural terms these prisons are based on a two-storey arrangement of adjoining units; three walls of the exercise yards are the prison's normal walls and the remaining wall is the one separating two adjoining exercise yards. The height in question is therefore a consequence of the normal structure.
2. In this type of architectural structure it is not possible to extend the length of vision beyond 10 metres. To do so would entail completely altering the architectural structure of the prison and building it on a larger tract of land with a superstructure covering a broader area. The available budgetary resources do not allow this.
3. In high-security prisons low walls cause frequent attempts to escape, which can lead to unfortunate incidents.
4. We believe that in a prison whose inmates will spend a reasonable part of the day engaged in purposeful activities outside their living units, the fact that exercise yards are surrounded with high walls and that length of vision is 10 metres is of secondary importance to the useful functions performed by the prison. Furthermore, many high-security prisons in the world afford shorter length of vision, and no exercise yard is used by prisoners all day.

b. Kartal Special-Type Prison

Kartal Special-Type Prison which is used as detention center was built at high speed on account of the riots and murders organised in particular by terrorist and mafia offenders in Istanbul's other prisons, which are based on the large dormitory system, and it was brought into service for reasons of urgency before its facilities for social, cultural and sports activities could be completed. As the committee noted, the prison does have a few facilities for activities. However, both for security reasons and because under the relevant legislation remand prisoners cannot be forced to take part in activities if they do not want to, for this reason the required rate of use has not yet been achieved.

Owing to budgetary restrictions, preparation of the architects' plans for the prison's additional unit has only just been completed. Plans have been drawn up for a multipurpose hall; an invitation to tender for this unit will soon be issued and greater participation of remand prisoners in activities will then be achieved.

As the committee realises, the situation regarding facilities for activities in Kartal Special-Type Prison should not be taken as an example for F-type Prisons. Kartal Prison is not an F-type prison; it is a detention center brought into service before its completion, for reasons of urgency, and under Article 116 of the Code of Criminal Procedure and Article 110 of the Regulations inmates of remand prisons cannot be forced to take part in communal activities.

c. Bursa E-type Prison

The fact that in Bursa E-type Prison rooms planned to accommodate 8 prisoners are holding 24 prisoners reflects the problem of acute overcrowding in our country's prisons. This overcrowding, which is clearly a problem shared by other Council of Europe countries, is more striking in large cities such as Istanbul, Ankara, İzmir, Bursa and Adana. With a view to relieving it, a seminar on alternatives to imprisonment, jointly organised by the Ministry of Justice and the Council of Europe, is soon to be held for judges and public prosecutors. In addition, work is continuing on directing the necessary funds towards investment plans to increase the capacity of our penal institutions.

The necessity of accommodating a much larger number of prisoners in a prison designed for 500 inmates is known to be the source of various shortcomings in the prison's material conditions and health care services and in the observation unit accommodating new arrivals.

The Ministry of Justice General Directorate of Prisons and Detention Centers is closely monitoring the situation in Bursa E-type Prison from this point of view and the efforts to remedy these problems are nearing completion. The account of the current refurbishment work received from the office of the governor of Bursa E-type Prison is appended.

As regards the committee's view that inmates of this prison spend up to 25 days without any outdoor exercise, all remand and sentenced prisoners in observation and disciplinary cells are given at least an hour and a half of daily open-air exercise under the terms of Ministry of Justice Circular 21-134 of 3.11.1997. However, the Ministry of Justice has once again reminded the prison administration of the provisions of that circular and requested them to be more careful on this point.

It will be remembered that during its visit the CPT received detailed information from the Ministry of Justice General Directorate of Prisons and Detention Centers on the current work on prison staff training, the newly opened staff training centre and plans for the future.

As a result of the risks inherent in dormitory-type prisons and the low pay, we are experiencing difficulties in recruiting staff to work in prisons. We naturally share the committee's views on the risk assessment of prisoners and the quality and training of staff, but available resources also have to be borne in mind in addressing the matter.

Lastly, the Turkish authorities referred to the report on the 1996 visit strictly in connection with the CPT's reference to that report made in the report on the 1997 visit, on the subject of the shift to smaller living units. The reference made by the Turkish authorities is neither longer nor more detailed than the one made by the committee.

B. Police detention centres

The Turkish police authorities have taken note of the CPT's findings that while complaints of the most severe methods of physical ill-treatment observed on past visits have diminished, complaints of deprivation of sleep, prolonged standing and threats to the detainee or his family are continuing. As indicated by the committee, the Turkish authorities will remain resolute in their intent to prevent the use of such methods, which have no place in a modern police system.

In this connection, Istanbul Police Headquarters and the other provincial police headquarters attach great importance to training activities, seminars and lectures. The training activities aimed at the staff of Istanbul Police Headquarters in line with the committee's findings are being pursued, and frequent inspections, both scheduled and unannounced, by line managers, public prosecutors and State Security Court prosecutors are also continuing.

To improve the quality of the medical examination of persons in police custody, detailed three-page printed forms for general judicial medical examination reports and sexual assault reports have been prepared and sent to the 81 provincial governors' offices for their use, with a circular dated 20 September 2000 and signed by the Minister of Justice. Copies of the printed report forms have already been sent to the committee via our Permanent Delegation in Strasbourg.

The results of the inspections conducted by the Ministries of Justice and the Interior for the period from April to June 2000, in accordance with the Prime Minister's circular of 25 June 1999, have been sent to the committee through the same channels. The inspections are continuing.

The Protocol on the Effective Operation of Administration, External Protection and Health Care Services in Penal Institutions and Detention Centers, signed between the Ministry of Health, the Ministry of Justice and the Ministry of the Interior, came into force on 17.10.2000. Article 66 of this protocol provides that when remand and sentenced prisoners receive medical examinations in hospital, if the room or unit in which the examination is conducted is secure, the gendarmerie officers shall wait outside the door, and if the room or unit is not secure, the gendarmerie officers shall take protective measures inside the examination room, but far from the screen, at a distance where they cannot hear the conversation between doctor and patient.

Lastly, it should be added that the Turkish authorities are pleased with the progress of their co-operation with the CPT.

APPENDIX

WORKS CONDUCTED IN THE OBSERVATION UNIT OF BURSA E-TYPE CLOSED PRISON

On the fourth and topmost floor of the observation unit, two sets of four rooms have been combined to form two hobby rooms for remand and sentenced prisoners.

In the area between the two hobby rooms, two rooms have been combined to form a prison guard's room containing a toilet, washbasin and shower.

Each of the hobby rooms contains four windows measuring 130 x 50cm for ventilation purposes (see sketch 1).

On the third floor of the observation unit 10 "cell rooms" measuring 2.30 x 3.10m have been installed. Each room contains a window measuring 95 x 75cm for ventilation purposes. They are equipped with a toilet, washbasin and shower and a bunk bed (see sketch 2).

The first and second floors of the observation unit have been converted into five small duplex dormitories.

Three of these dormitories are of the same design and two of different design. (One of the latter has a different layout from the others owing to unavoidable constraints). All but one of the duplex dormitory rooms are of the same size: the room with the different layout measures 6.40 x 4.30m, while the others measure 4.80 x 4.30m.

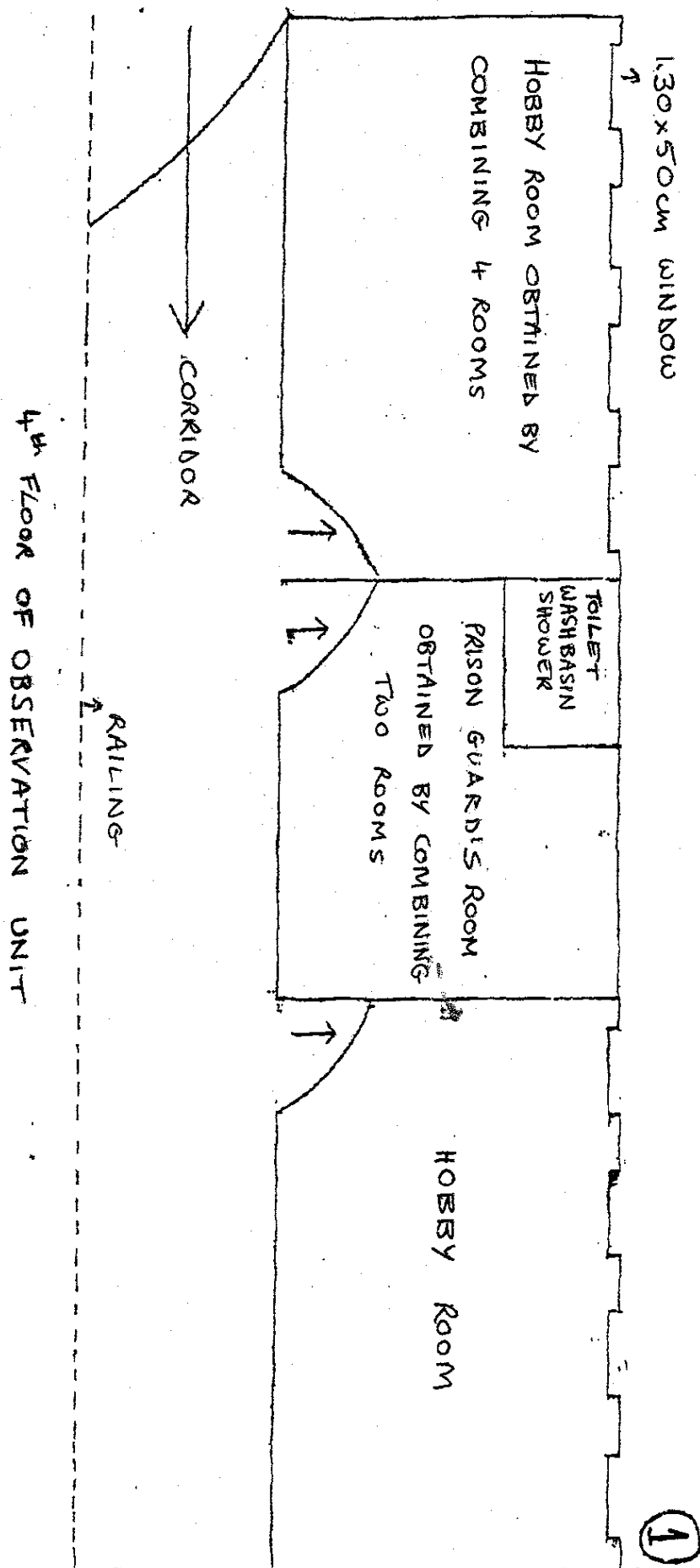
The ground floor of the dormitories is designed as an eating and living area. It includes a toilet, washbasin and shower facility and a kitchen unit. These areas are more or less identical and open onto exercise yards measuring 6.20 x 4.80m.

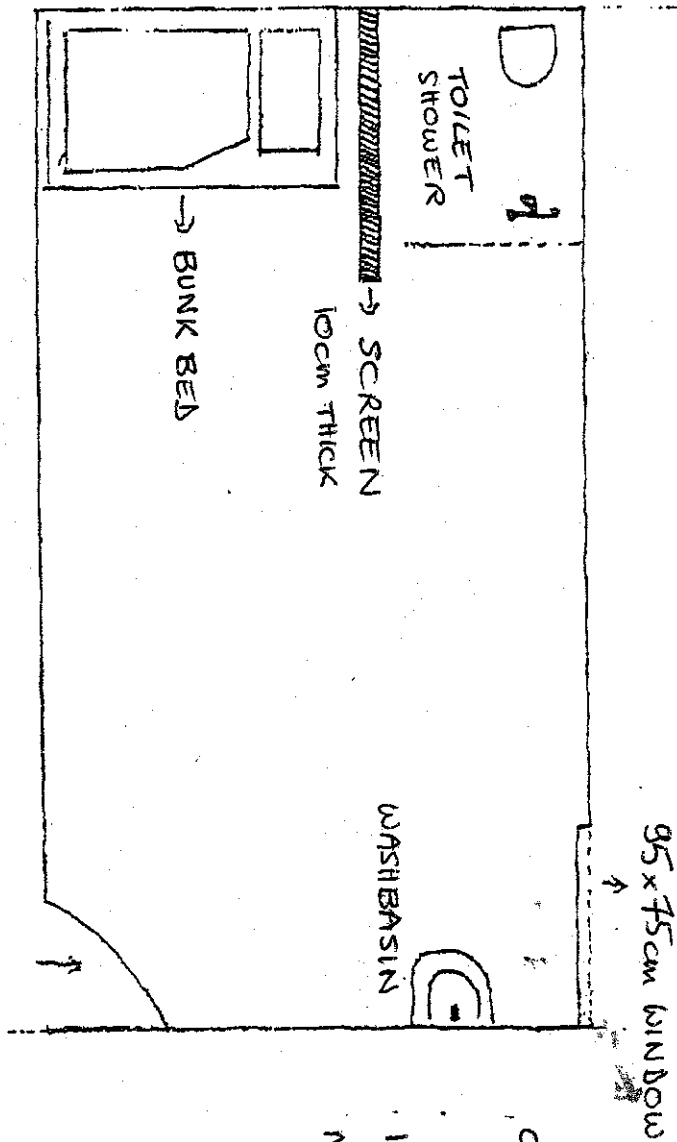
The walls looking onto the exercise yard contain windows measuring 95 x 75cm for ventilation purposes.

One of the duplex dormitories has six windows altogether on the ground floor and top floor (see sketch 3).

The duplex dormitory with a different layout due to unavoidable constraints has two windows for ventilation purposes, measuring 75 x 110cm and 50 x 95cm, on the ground floor and one window measuring 75 x 130cm on the top floor.

The works are being carried out at a very fast pace and work has started on the inside layout and fixtures of these buildings.





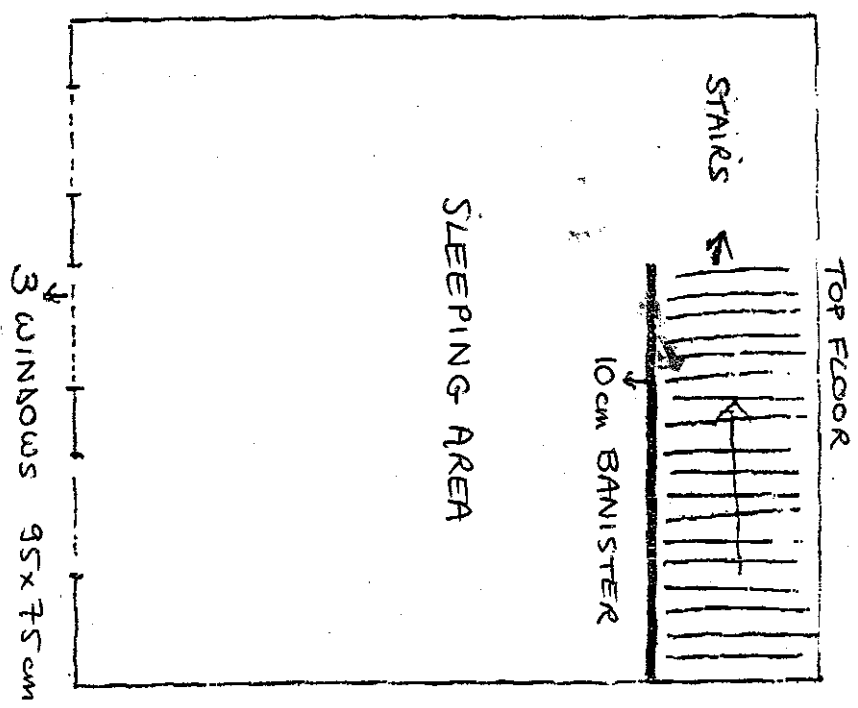
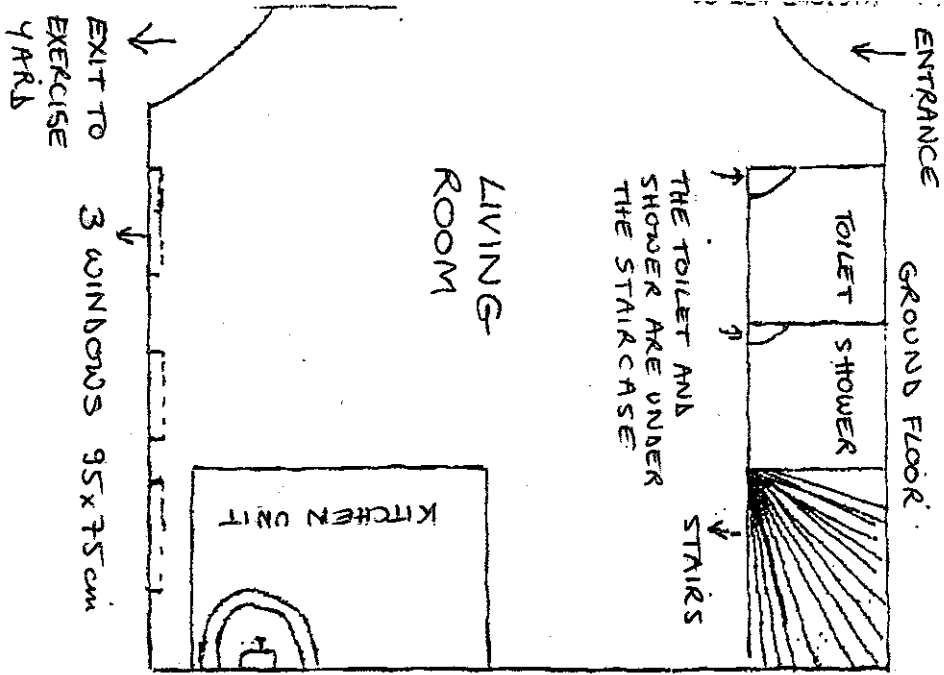
SKETCH 2

②

SKETCH OF CELL ROOMS
ON 3rd FLOOR OF OBSERVATION UNIT
10 ADJOINING CELLS
MEASURING 2.30 x 3.10 m

GROUND FLOOR 1ST TYPE OF DORMITORY (ONE DORMITORY)

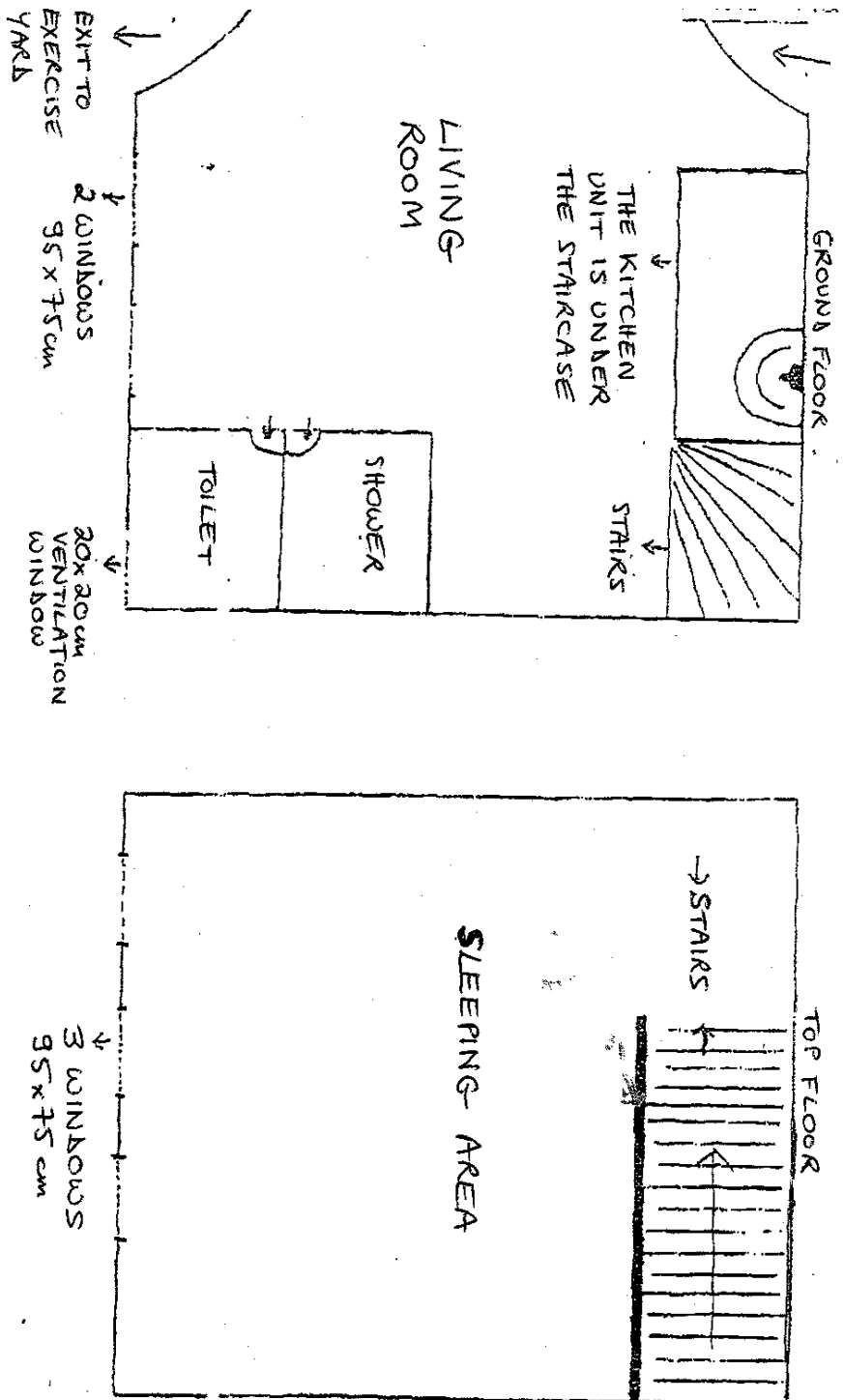
(3)



SKETCH 3

GROUND FLOOR and TYPE OF DORMITORY (3 DORMITORIES)

(4)

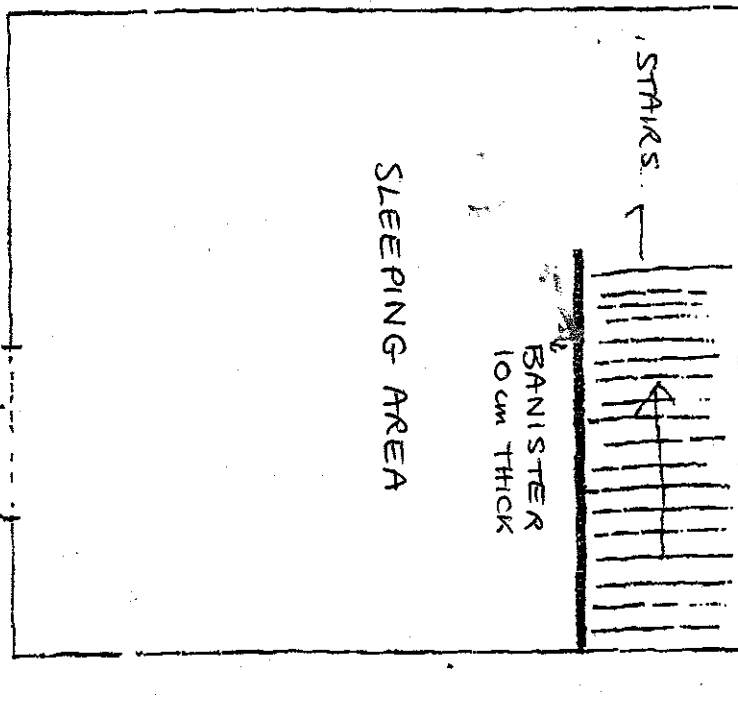
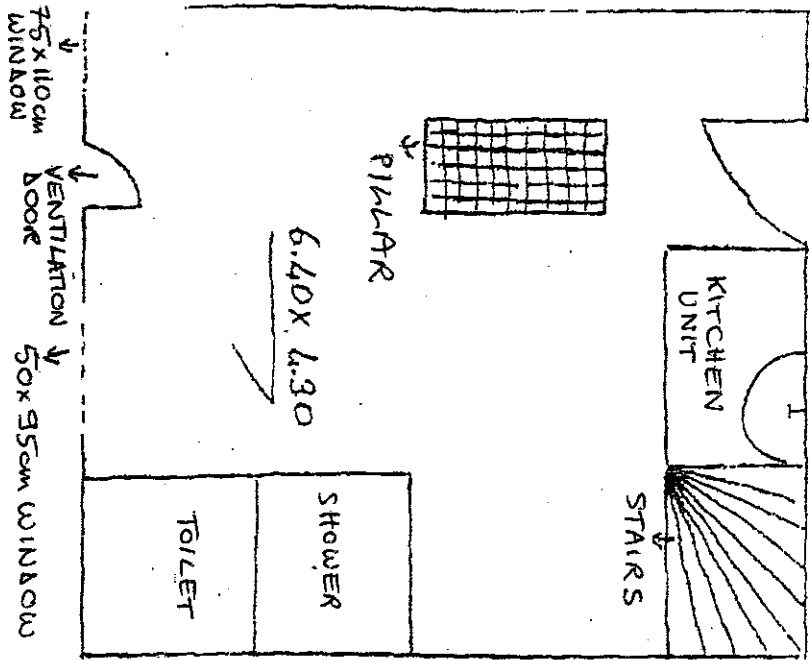


LIVING ROOMS AND SLEEPING AREAS : 4.80 x 4.30 m
EXERCISE YARDS : 6.20 x 4.80 m

SKETCH 4

GROUND FLOOR DIFFERENT TYPE OF DORMITORY

(5)



THIS DORMITORY HAD TO BE DESIGNED DIFFERENTLY BECAUSE OF ITS SPECIAL FEATURES

SKETCH 5

2 CORRIDOR
WINDOWS